

How we support the rights and interests of people who are detained in hospital

This booklet is for anyone who is detained in hospital under the Mental Health Act 1983.

August 2012

About this booklet

If you are detained ('sectioned') in hospital under the Mental Health Act, this booklet will help you understand your right to meet one of our Mental Health Act Commissioners when we are visiting your hospital ward, and what you can expect from us. It also explains your rights about taking medication and how to complain if you need to.

About us

We are the Care Quality Commission, the independent regulator of health and adult social care in England. We protect the interests of people whose rights are restricted under the Mental Health Act. We make sure that mental health law is used correctly and that patients are cared for properly while they are detained in hospital or are on a community treatment order.

Our Mental Health Act Commissioners

Our Commissioners have a very good knowledge of the Mental Health Act and of mental health services. They come from different backgrounds and include doctors, nurses, social workers, lawyers, psychologists, and other people who use, or have used, mental health services themselves.

We visit all hospitals where people are detained under the Mental Health Act to make sure that they use mental health law correctly and that people are cared for properly while they are detained in hospital.

What to expect when our Commissioner visits your hospital

If you'd like to speak to one of our Commissioners when they visit your ward, they will meet you in private.

The Commissioner will also meet with managers and other members of staff who are treating you. This is so they can discuss things that affect your care and treatment and raise any issues that might be troubling you.

The Commissioner will check that:

- you are being lawfully detained and cared for;
- you know what your rights are under the Mental Health Act and they have been explained to you in a way you can understand;
- staff respect your privacy and dignity;
- staff respect your cultural background, sex, age, sexual orientation (whether you are heterosexual, lesbian, gay or bisexual), religion or belief or any disability you may have;
- the decisions about your treatment are in line with the guidance for professionals set out in the Mental Health Act code of practice; and
- before you leave hospital, the right type of plan is made for your aftercare.

What our Commissioners cannot do

There are some things that the law does not allow us to do. Our Mental Health Act Commissioners are not able to:

- discharge you from your section (the part of the Mental Health Act that allowed you to be detained in hospital);
- discharge you from hospital;
- arrange for you to be transferred to another hospital;
- offer you individual medical advice;
- offer you individual legal advice; or
- arrange for you to have time away from hospital.

But our Commissioners can tell you who to contact for advice about these issues.

If you want to appeal against being detained in hospital, ask a member of the ward staff to explain how to do this.

Independent Mental Health Advocates

While you are detained under the Mental Health Act, you have a legal right to support from an Independent Mental Health Advocate.

These people are specialist mental-health advocates. They can help you find out more about your rights and how to use them.

If you would like to talk to an Independent Mental Health Advocate, please speak to your treating team.

Your rights about consent to medication

When the hospital gives you medication for your mental illness, your doctor should:

- explain what the medication is for;
- tell you if there are likely to be any side effects; and
- ask you for your consent.

For the first three months of your treatment in hospital, you may have to take medication whether or not you consent to do so.

After the first three months of treatment, your doctor must have a certificate that gives them the right to continue giving you your medication.

If you are consenting to take medication, your doctor must record your views and fill in a document which states that they have explained the medicine to you and that you have agreed to continue taking it. Your doctor must be satisfied that you are well enough to give proper consent and that you understand the nature, purpose and likely effects of the medication.

If, after three months of treatment, you do not want to continue to take medication or you are too ill to give your consent, your doctor must tell us.

We will arrange for an independent doctor, known as a Second Opinion Appointed Doctor (SAOD), to visit you. Until the Second Opinion Appointed Doctor has visited you and made a decision, you may have to continue to take the medication.

If at first you agree to continue to take the medication, you can change your mind later. It is best to talk to your doctor before you do so.

What to expect from the Second Opinion Appointed Doctor

When visiting you, the Second Opinion Appointed Doctor will do the following.

- Check that you are being lawfully detained.
- Discuss the medication with you. Normally this will be in private unless you want someone else there as well. If you need an interpreter or signer, the hospital will provide one.
- Speak to your doctor, a nurse and one other professional who has been involved in your care and treatment.
- Decide whether or not you need to continue to receive the medication.

If the Second Opinion Appointed Doctor agrees that you should continue with all of your medication, or just some of it, they must fill in a certificate stating this and describing the medication. Your doctor needs this certificate to continue with your treatment.

Your own doctor will tell you what the Second Opinion Appointed Doctor decides.

The Second Opinion Appointed Doctor is independent of the hospital, and the decision they make is a personal clinical decision. You cannot appeal to us if you disagree with the decision.

Treatment in urgent situations

In some very urgent situations, the above rules about consent to treatment do not apply. The Mental Health Act allows doctors to give medication for a mental disorder to a patient in hospital without their consent if it is needed to:

- save their life;
- reduce their serious suffering;
- stop their condition from getting much worse; or
- stop them from behaving violently or being a danger to themselves or to other people.

The Mental Health Act code of practice explains your rights about consent to treatment in more detail. If you would like to see it, ask your nurse or care co-ordinator for a copy or download a copy from the Department of Health's website at www.dh.gov.uk.

What to do if you want to complain

If you are, or were, detained in hospital under the Mental Health Act, and you have a complaint about something that happened during this time, you should first ask the managers of your hospital to investigate the complaint for you.

- You should write or speak to the Complaints Officer at the hospital you are in, or were discharged from, or ask somebody to do this on your behalf. (Every hospital has a Complaints Officer.)
- If you find it difficult to make your complaint or would like some support, most hospitals have an advocacy service that will be able to help you, or you can ask one of our visiting Commissioners to help you.
- The hospital managers will try to sort out your complaint. They will let you know what they found and tell you about any action that they plan to take to put things right.
- If you are not satisfied with the hospital's response, you can ask us to investigate. Contact our office at the address on the back of this booklet.
- You can also ask the Health and Parliamentary Ombudsman to look into your complaint.

To contact the Ombudsman, phone **0345 015 4033** or write to:
The Parliamentary and Health Service Ombudsman, Millbank Tower,
Millbank, London SW1P 4QP.

How we will deal with your complaint

We have the power to investigate complaints that relate to your treatment under the Mental Health Act.

Our role as regulator means that we do not settle individual complaints that concern any other failure to meet government standards of quality and safety. If you have a complaint about these, you, or someone acting on your behalf, should read our booklet 'How to complain about a health or social care service'. You can also share your experience with us on our website at www.cqc.org.uk/public/sharing-your-experience.

If your complaint is about your treatment under the Mental Health Act, we will need first to look at the results of the hospital's own investigation into your complaint.

We will carry out a detailed assessment of your complaint and the hospital's response. If we agree that the hospital has failed to sort out your complaint, we will decide whether to carry out our own investigation into the matter.

At the end of our investigation, we will send you a letter telling you what we have found out. This may include our recommendations to the hospital on what they should do to prevent such a failing happening again.

Your personal information

If you have been in contact with a Mental Health Act Commissioner in the past, we may hold personal information about you. Under the Data Protection Act, you have the right to ask us:

- what personal information we hold about you;
- who has access to your personal information;
- why we hold your information and how it is used; and
- to correct any inaccurate information.

If you would like to see details of the personal information that we may hold about you, please write to us at the address on the back of this booklet.

How to contact us

If you would like to contact us, you (or a friend or relative on your behalf) can:

- write to our office in Newcastle (the address is on the back of this booklet); or
- speak to someone in our office between 8.30am and 5.30pm from Monday to Friday by phoning **03000 616161** (choose option 1).

If the office is closed, leave a message on our telephone answering service. Please leave your name, address and phone number so that someone can contact you on the next working day.

Other publications in this series

‘How we support the rights and interests of people who are detained on a Community Treatment Order (CTO)’

‘Electro-Convulsive Therapy (ECT) – your rights about consent to treatment’

Get in touch

Write to us at:

**CQC Mental Health Act
Citygate
Gallowgate
Newcastle upon Tyne
NE1 4PA**

Phone: **03000 616161 (choose option 1)**

Email: **MHAenquiries@cqc.org.uk**

Website: **www.cqc.org.uk**

If you would like this booklet in a different language or format (for example in large print or easy-read or on audio CD) please visit our website www.cqc.org.uk or contact us using the details above.



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